

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

JAMES S. BERNAT, )  
)  
PLAINTIFF, )  
v. )  
)  
GENTEX OPTICS, INC., )  
)  
Defendant. )

C.A. NO. 04-40058-FDS

**PLAINTIFF’S FIRST MOTION TO EXTEND DISCOVERY DEADLINE  
AND SERVE MORE THAN 25 INTERROGATORIES**

Plaintiff in the above captioned matter, James S. Bernat (“Bernat”), respectfully requests a 30 day extension of the December 31, 2004 discovery deadline, through and including January 30, 2005. As set forth below, Bernat has made progress conducting discovery thus far, and the extension he seeks is reasonable and will not interfere with the April 25, 2005 dispositive motion deadline set by the Court. In addition, pursuant to Fed. R. Civ. P. 33, Bernat requests permission to serve more than 25 interrogatories, as he has already served 18, and the further discovery he plans to conduct *may* result in his serving more than seven additional interrogatories.

Plaintiff has good cause for requesting this extension. Since the Court's October 13, 2004 scheduling order, Bernat has been diligent in prosecuting his action. On November 15, Bernat served upon Gentex his First Set of Interrogatories and Requests for Production. On November 19, the undersigned deposed two Gentex employees concerning Bernat's conduct (the matter at issue in his suit) at Gentex's headquarters. In addition, Gentex noticed its deposition of Bernat for December 7. Bernat, who had recently started a new job, was not available on that date. Based on both Bernat's and the

undersigned's mid-December schedules, the undersigned proposed that Gentex depose Bernat on either December 20 or December 27. Gentex deposed Bernat on December 20. Because of this deposition scheduling delay, the undersigned agreed with opposing counsel's position that Gentex's interrogatory responses, which had been due to Bernat on December 15, would not be due until after it deposed Bernat. Gentex mailed the undersigned its responses on December 21, they were delivered to the undersigned's office on December 24 (on which date the office was closed), and the undersigned did not review them until returning from the long weekend on December 27.

The further discovery Bernat needs to conduct is for the purpose of fleshing out the facts and circumstances of Gentex's accusations about the conduct which led to his termination. Significantly, Gentex did not inform Bernat when it terminated him a year ago who it claims witnessed his conduct or what exactly that alleged conduct was; it revealed this information for the first time last week, in its December 21 discovery responses. Bernat will be serving a limited number (likely fewer than ten) of additional interrogatories and document requests and deposing the Gentex employee, Amy Powers, who allegedly witnessed Bernat's conduct, as well as possibly one or both of the supervisors to whom Powers allegedly reported the conduct. In order to ensure that Bernat's additional time to conduct discovery is limited to 30 days (assuming no discovery disputes or motions to compel), the undersigned will be supplying opposing counsel with additional interrogatories and document requests on December 31, 2004, making Gentex's responses due on January 30, 2005.

The undersigned explained to opposing counsel his reasons for requiring an extension, as well as his willingness to supply him with additional interrogatories by the

end of the day on December 31, 2004, and suggested that parties file with the Court a mutual agreement to extend the discovery deadline by 30 days. However, opposing counsel would not join in such an agreement and informed the undersigned he would oppose this Motion.

For the above reasons, Bernat respectfully requests that this motion be granted.

DATED: December 30, 2004

PLAINTIFF  
JAMES BERNAT

By /s/ Ian O. Smith

Thomas G. Moukawsher (ct08940)

Ian O. Smith (ct24135)

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**Certificate of Service**

I hereby certify that on December 30, 2004, a copy of foregoing Plaintiff's First Motion to Extend Discovery Deadline and Serve More Than 25 Interrogatories was filed electronically. Notice of his filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

By /s/ Ian O. Smith

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